

Department of Ecology – Water Quality Financial Assistance Council Meeting

July 21, 2016

In Attendance: Bruce Lund, Dan Kaplan, Randy Freeby, Shelly McMurry, Jeff Nejedly, Daniel Thompson, Kim Wagar, Ty Meyer, David Carcia, Pat Brommer, Liz Ellis, James Kelly, David Haws, Corina Hayes, Janet Cherry

Welcome and Introductions, [Shelly McMurry](#)

FMS Update, [Jeff Nejedly](#)

- FMS is currently interviewing for a permanent Environmental Specialist 3 position. The position will be coordinating Clean Water Needs Survey, address needs and outcomes.
- Mindy Ballinger has resigned and Elaine Markham is the FMS administrative assistant.
- FY18 Funding cycle.
 - Workshops scheduled in August.
 - Guidelines will be published by early August.
 - The SRF loan interest rate has been calculated to be 1.5% (20 Year)/ .07% (5 year).
- Issued FY17 funding list.
 - 54 projects \$109M. It is lower due to cuts and delayed funding to SFAP. Ecology made a commitment to projects who applied for design/construction and were eligible for hardship grant funds to fund construction, we would put them to the top of the list for FY18 to offer Centennial. It is approximately \$8.2M worth of hardship projects.

Legislative and Budget Update, [Kim Wagar](#)

- Program is working on legislation to change the funding distribution on Wastewater facility operator's certification. Currently the fee goes into the general fund. This legislation would create an account that the fee would go into a fund to pay for the operator's certification program. It is small amount but it would offset the costs of running the program.
- Budget requests are being worked on within Ecology and haven't been finalized and sent to OFM so the following is subject to change.
 - Capital budget
 - For SRF we will be requesting \$210M appropriation authority
 - In 2016 supplemental had direct cuts to Stormwater and Centennial funds due to MTCA shortfall. The intention of legislature was to fund in the future. The Centennial and Stormwater decision packages would restore

\$30M that was cut. The total request is about the same as the request last biennium. Still hasn't gotten to the governor's office. Due in September. Still possible changes because it's in internal review.

- Since SFAP was funded by MTCA, and MTCA will have no new requests we will ask it to be funded out of State Building Construction Account (SBCA). MTCA was over committed and there isn't enough to cover reappropriations. A new estimate came out that there will be an additional \$380M drop in projected MTCA revenue for the next biennium. Supposed to recover in 2021? OFM is conducting a study to look at the MTCA fund, future needs and funding.
- The message for FY18 cycle we are uncertain what will be available for Centennial.
- Operating budget
 - Ecology is moving away from using 4% SRF funds for administration. 17-19 biennium we will be transitioning to using the administration account.
 - Looking to replace our Ecology Loan Tracking System (ELTS). We did an evaluation of needs last year. Because our fiscal office have 8 other obsolete. Decision package with appropriation authority for a "financial suite". We opted to go that route because when we did the Lean effort, it was obvious that the other systems created a lot of inefficiency. Hopefully we will have the authority to work on this last spring. Probably cost \$300,000 to \$500,000 of SRF to cover that cost. It is being cost allocated. Probably use the 4% SRF administration cost for that. DOH RFP for a similar system closes on the 26th. They budgeted \$500,000. Looking for someone to develop an accounting system that speaks to their application system.
- \$250,000 budget proviso for an OFM study on water bills, flood control, Stormwater and water resources. Report due by December.
- The Public Works Trust Fund sent out a RFP for projects for \$100M. PWTF is required to submit a list to the Legislature. Commerce/PWB is considering directing funds to infrastructure that would support affordable housing. Conversation has begun to address lead abatement in drinking water and lead paint. The board needs to figure out how to use the PWTF.

SRF and Centennial potential rule revisions WAC, [Daniel Thompson](#)

On July 19, 2016, the Department of Ecology's Water Quality Program filed a Pre-proposal Statement of Inquiry (CR-101 form) with the Office of the Code Reviser that states our intent to start rulemaking for two existing rules, Chapter 173-98 WAC, Uses and Limitations of the Water Pollution Control Revolving Fund, and Chapter 173-95A WAC, Uses and Limitations of the Centennial Clean Water Program. Chapter 173-98 WAC sets forth requirements for Ecology's administration of Washington State's Water Pollution Control Revolving Fund (CWSRF). CWSRF provides low interest rate loans to public bodies for statewide, high-priority water quality projects that are consistent with the federal Clean Water Act. Chapter 173-95A WAC sets forth requirements for Ecology's administration of the Centennial Clean Water Program

(Centennial). Centennial provides grants and loans to public bodies for statewide, high-priority water quality projects through appropriation by the Washington state legislature. Our rulemaking website is at

<http://www.ecy.wa.gov/programs/wq/ruledev/wac17398/1604ov.html>

The goal is to have the rule revisions done by May 31, 2017. This is a faster timeline than most, but Ecology thinks it's doable because we don't need to do a small business economic impact analysis or a cost benefit analysis, and we have an existing advisory committee (FAC). There are 28 topics, 2 we are doing no matter what. This includes housekeeping and allowing for 30 year SRF loan terms as is allowed by the Clean Water Act.

Related to the 30 year term loan, Shelly McMurry and David Dunn are working on modeling to help inform the discussion around how we utilize 30 year terms. They needed more time due to a steep learning curve in trying to utilize EPA's financial forecasting model. We will have to schedule a separate meeting. Shelly thought by the end of September would be a good time. Due to the tight timeline for the rule revision, waiting until November isn't an option. Ecology asked if the group preferred a WebEx or face to face. There was mixed preferences. Ecology will plan a face to face with a WebEX option for people who want to participate on line. The group prefers a WebEX but some people wanted face to face. FAC members want to see what other states have adopted and how they make their decisions. We discussed how Oregon identified their base lending capacity and don't make decisions that would result in a reduction of 10 % of their lending capacity. Washington DWSRF allows 30 year terms but only for hardship.

During the meeting Daniel used the PowerPoint to outline the issue and suggested changes. Please see the meeting materials "Potential Revisions to the CWSRF and Centennial Rules-- Updated Per 07 21 16 FAC Meeting.pdf". This document captures more details about the issues and decisions. Below are notes taken of the FAC discussion and feedback.

Accounting Practices

Recent amendments to the Clean Water Act require SRF recipients to comply with GAAP accounting principles which requires accrual-based accounting versus cash-based accounting. Ecology thought EPA had an agreement that small communities could use cash-based accounting as long as the state auditor can audit them. David Carcia wants to have a separate meeting with EPA HQ because he thinks all recipients have to follow GAAP. FAC members pointed out this would be a major hardship for small communities if they had to switch to GAAP, they would not use the SRF funds. Ecology should see how other state's small communities are dealing with this. During the meeting with EPA, Ecology should have someone who can talk on behalf of small communities and possibly someone from the auditor's office.

Additional subsidization

FAC prefers keeping this section but generalizing to remove outdated target references. Something like "if a capitalization grants is provided...."

Bid Overruns and Change Orders

FAC members don't want to encourage sloppy engineering but see the needs to allow for funding unforeseen circumstances. Prefer keeping caps but add some flexibility for funding unforeseen circumstances. Maybe include language that requires an Ecology review for

“escalation costs” that exceed the caps. They do think bid overruns should be based on the engineer’s estimate that goes out with Bid document not the “original” submitted with the funding application.

Capacity for Growth

Suggested to remove limit. Ecology approves the facility plan and won’t approve a plan that isn’t sized correctly. Ecology makes sure that the facility plan is consistent with the comp sewer plan and the growth management plan. FAC members liked the suggestion.

Cost and Effectiveness Analysis

Does the rule have a general statement that we comply with federal requirements? The purpose says “consistent with the CWA”. FAC members support taking it out of the WAC. Address thru SERP process.

Design-Build vs. General Contractor/Construction Manager

Suggestion to remove from WAC. Our agreements state that they follow state and federal procurement laws. Make sure to walk thru the Design-Build statute and confirm there is nothing in there that is specific for the funding. If there is a reason it is in there and we decide to keep it, include GCCM.

Emergency Funding

DOH just incorporated emergency funding in their rule. They are limiting to “acts of gods”. Making that call is hard. Sometimes it is a result of deferred maintenance instead of a real emergency. FAC members like having this in but with conditions. Look at what DOH is doing. It is important that there is a quick turnaround time to access funds. Possibly provide with a higher interest rate. CDBG has one that accommodates eminent threat.

Funding Allocation Process

FAC members recommended not pursuing. As long as you look at this in terms of a trend over time and there isn’t a problem, there is no problem to fix.

Funding Applicant Workshops

FAC members supported more flexibility and removing a requirement of “one per region”.

Green Project Reserve

Some FAC members support removing it. If it is specified in the capitalization, why duplicate it here? Consider that Climate and Green is a governor’s priority. May want to keep it. If so, make it generic “consistent with capitalization grant” to remove specific target language.

Hardship criteria

MHI is the standard across other programs. You don’t send an individual a sewer bill so it doesn’t make sense to base this on PCI. FAC members don’t want to take hardship funds away from smaller communities, so they like a population cap. Some members thought the focus should be more on the impact on sewer rates and affordability. DOH uses an “affordability index”-%. Sounds like it is the same as how Ecology calculates, they just don’t have a population criteria. The larger communities have more of a base to spread costs out, so naturally the smaller communities are more likely to meet hardship. Members would like to see the list of the MHI per communities; this will be in the SFY18 Funding Guidelines that will be published in

early August. Maybe look at more data. Look at example communities and what it would mean. This topic will be discussed at the next meeting. There was no consensus.

Hardship-Maximum Subsidy

Centennial has a set aside of 1/3 is for Nonpoint projects. If the cap grant goes away, there would be no forgivable principal. People seemed split on this one. They agree that Nonpoint is important. When we have adequate Centennial funding, we have met the Nonpoint demand. The group supported leaving it as is.

Interest Accrual

If we started to charge interest on the money up front, the local loan programs would have to stop. They spend the money slower and couldn't afford that. What would be "committed". It can take until January to get an agreement signed. We have a condition that they start projects within 10 months. Consider fluctuation of interest rates. Lowering rates if projects proceed on schedule. In general, the group didn't like the current suggestion. Ecology could enforce current loan conditions to address the problem.

Interest Rates

Adjusting interest rates on a Case by case basis would result in pressure from recipients. Ecology may need flexibility to restructure interest rate if communities are struggling. King County brought up having a "floating rate" with the market instead of locking in before the funding cycle. Depending on the bond rate. Lower rate for non-rate based activities, e.g., local loan programs. The group wants to table this and include in the discussion in September along with the 30 year term loan.

Land Acquisition

The group agreed with changing to allow for land purchase through SRF. They recognized that if you can't use grant for land purchase, some communities may not have the funds to proceed with the project. They didn't support using grant money to acquire land.

Onsite Sewage Systems Repair and Replacement Programs

Is there a definition of "small commercial enterprises"? Yes, smaller than 3,500 gallons/day. Seems like basing on flow makes the most sense. The group agreed to delete income from the definition.

Perpetuity Definition

Consider using a 5 year average. Accelerating the fund is part of ensuring perpetuity. How much we want to originate over 100 years. Remember we are buying WQ benefit. The fund should be sustainable without federal funding. Creating benchmarks. If it drives policy, we should keep it. Maybe lending institution like WSECU would have a definition.

Preconstruction in Hardship Communities

It is important to have the community bought into the process. If the cap grant goes away, maybe we should be able to use Centennial for preconstruction in hardship communities. Explore tying to a construction project so it isn't wasted. Give back the money if you don't build it. We have had success with our preconstruction projects. They come in for construction and score high because they have been through the Ecology process.

Prior Authorization

This isn't allowed, delete section.

Public Bodies Definition

FAC members discussed how state agencies could go to the legislature to get money. They don't want money away from cities and towns by adding new edibility.

Publicly-owned Industrial Facilities

If this was limited to treatment maybe. We have limited funds, why would we want to open up eligibility. It is a possibility. Continue discussion next time.

The rest of the topics will be discussed in September. We couldn't get through them all.

Future FAC Meetings (Tentative):

- September 2016 (Date TBD). We needed to add another meeting to address the rest of the rule revision discussions with an emphasis on Financial forecasting for 30 year term loans.
- November 10, 2016

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